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SUBJECT: COSTA RICA: PLENTIFUL WATER, POOR MANAGEMENT

¶11. (U) SUMMARY: A rain-rich climatic regime supplies Costa Rica with more than enough water. However, the growing threat of contamination and chronic underinvestment in infrastructure threatens potable water resources, and undermines Costa Rica's "clean and green" international image. Urban expansion in the San Jose area and the rapid expansion of private real estate developments along the Pacific Coast (in many cases associated with AmCit investors) test the capacity of the overlapping government agencies responsible for protecting, regulating, developing, maintaining, and delivering water resources. The public sector recognizes the need for legislative reform and public investment while also engaging with the private sector to tap capital in order to develop new water projects. Nonetheless, given other GOCR priorities (such as domestic security) competing for legislative attention, and the diminished political capital of the Arias administration, systemic reform is unlikely before the next elections in 2010. END SUMMARY.

98 PERCENT RUNNING WATER . . .

¶12. (U) According to the latest "State of the Nation" (SotN#13) report, nearly all of Costa Rica's population -- 98 percent -- receives water from pipes and almost all Costa Rican households -- 94 percent -- have access to running water. The Costa Rican Water and Sewage Institute (AyA), a national but autonomous public utility, states that 82 percent of the population receives potable water and that 16 percent receives untreated water classified by AyA as unpotable.

BUT GROWING WATER DEMAND . . .

¶13. (U) Costa Rica's rapid urban development has overtaken institutional capacity to develop and maintain the potable water resource. Resort development along much of the Pacific Coast has largely exhausted nearby existing fresh-water sources during the December-May dry season, prompting calls for major investment in new projects. The San Jose Greater Metropolitan Area obtains about 80 percent of its potable water from aquifers that are reported to have reached their extraction capacity, likewise prompting calls for major investment.

¶14. (U) Yet, Costa Rica's geography is such that even those areas of Costa Rica with potable water deficits during a portion of the year have clear potential to tap one of many sources: areas inland of the Pacific coastal boom towns have underexploited aquifers; tourist boom towns have obvious access to sea water; numerous rivers drain into the Pacific and the Caribbean; and the mountains north and south of the capital city of San Jose are laced with many streams. Costa Rica's looming water shortage is thus not due to major physical limitations.

. . . NO ONE CLEARLY IN CHARGE

¶15. (U) The water sector in Costa Rica suffers from a crisis in governance. Several governmental entities share overlapping (and sometimes conflicting) responsibility for water management. The Water Department of the Ministry of Environment, Energy and Telecommunications (MINAET) is arguably the logical custodian of water resources, but it is currently an underfunded bureaucracy with a confused mandate. The GOCR assigns responsibility for reviewing water quality to the Ministry of Health. The National Irrigation and Surface Water Service (SENARA) has responsibility for the evaluation of groundwater resources and for the country's largest agricultural water project. The National Forest Finance Fund (FONAFIFO), a department within MINAE, manages the payment of environmental services to preserve aquifer recharge areas. The Public Services Regulation Authority (ARESEP) approves water usage rates charged to individual users by the various system operators.

¶16. (U) Other institutions that regulate land use, and therefore impact water management, include the National Parks service, the Forestry Department of MINAE, the Ministry of Agriculture (MAG), the Institute of Housing and Urban Development (INVU), and local municipalities. Though these agencies have responsibility for various aspects of water management, none/none of these agencies actually deliver water to the user.

¶17. (U) On the operational side, AyA manages water systems serving 46 percent of the Costa Rican population and has nominal legal control over the systems operated by 1,800+ independent community water associations ("ASADAS") that serve another 25 percent of the population. Municipalities manage another 18 percent, the regional Heredia Public Utility Company (ESPH) has close to 5 percent, and the remaining roughly 6 percent receive water on their own or are not in the survey. (Data from SOTN#12, pg 233).

. . . REVENUE COLLECTION PROBLEMS

¶18. (U) The Arias Administration adopted water usage and discharge fees by decree in 2006, yet, to date, only private holders of water concessions have been paying the fee. Public institutions avoid payment of the water usage fee, while the discharge fee was re-defined and is slated to go into effect late this year. Jose Miguel Zeledon, current director of the MINAET Water Department, continues to be optimistic that the water usage fee will yield a total of \$10 million per year by 2013 when it is fully in effect, with 43 percent generated by SENARA, 29 percent from hydroelectric projects (mostly from the Costa Rican Electrical Institute (ICE)), 13 percent from water systems (AyA, ASADAS, and municipalities) and the remainder from individual wells and agricultural use. The Water Department will spend half those funds on the department itself, and dedicate the other half to reforestation and conservation projects.

. . . AND CONTAMINATION

¶19. (U) Contamination of the water resource has become increasingly evident in recent years, contradicting Costa Rica's international reputation as a "clean and green" country. Fecal contamination is universal in urban waterways; the Tarcoles River leading from the Central Valley to the Central Pacific coast has been categorized as "San Jose's Open Sewer." AyA's own statistics for 2007 show that only 3.5 percent of Costa Rica's sewage is treated under operator control, underscoring the extent of the problems:

Sewage Lines & Treatment Plant with Operator	3.5%
Latrines	3.5%
Sewage Lines & Treatment Plant w/o Operator	4.9%
Sewage Lines w/o Treatment Plant	20.1%
Septic Tanks	67.3%

AyA estimates that 50 percent of the septic tanks don't work. Thus, AyA claims that 37 percent of the waste water in Costa Rica -- 3.5

percent plus 33.5 percent -- is treated.

¶10. (U) Aquifer contamination also threatens water quality. Not only may river water and badly functioning septic tanks eventually introduce fecal contaminants into the aquifers, but gasoline storage tanks have already shown the potential for pollution. Agriculture pollution is a recurrent danger given that Costa Rica's relatively wealthy agricultural sector, geared for export production, makes heavy use of agricultural chemicals. In the coastal zones, salt water intrusion into the aquifers is an imminent threat as lax management of the aquifers leads to excessive drawdown and exposure to sea water contamination.

¶11. (U) Although the problem has been building for years, fecal contamination of coastal waters has become a front-page issue. A series of tests off of the Pacific coast tourist mecca of Tamarindo Beach revealed high levels of contamination along the beachfront and in the ocean. There is no public sewer system in Tamarindo and many hotels ignore the requirement to treat their own water. Recently, water tests at the Central Pacific resort town of Jaco revealed fecal contamination exceeding 1100 parts per 100 milliliters of water. (COMMENT: the recommended EPA threshold for swimming is 200 parts per 100 milliliters of water. END COMMENT.)

¶12. (U) Health officials finally responded by closing and citing establishments in the Tamarindo area, while AyA officials continue to test for pollutants along the coast. The five-star Hotel Resort Allegro Papagayo was partially closed from February to mid-September 2008 after repeated water pollution violations. The port city of Puntarenas, further to the south, dumps most of its sewage in the estuary adjacent to the city, prompting AyA to include a sewage system for that city among its future projects.

FINANCING AND THE PRIVATE SECTOR

¶13. (U) Private water suppliers in Costa Rica are severely limited. All fresh water in Costa Rica is legal property of the state. Landowners do not own the water that originates on/under their land or flows over it, and groups of private landowners who provide potable water or sewage services to themselves are on shaky legal ground. Recent legal opinion has tended to confirm AyA's long insistence that it, the municipalities, and regional authorities are the sole legal providers of these services and everyone else (ASADAS and landowner groups) must operate at the pleasure of AyA.

¶14. (U) Although AyA insists upon legal dominance in the water sector, its true power is reflected by its ability to harness private capital to develop public water infrastructure. According to AyA Legal Director Rodolfo Lizano, AyA's current public-private efforts are based on a 1968 law that stipulates when urban infrastructure is not already built, a developer may build that infrastructure and deliver it to AyA. In exchange, for a period of 5 years, subsequent land developers must first pay the developer who built the infrastructure.

¶15. (U) One project, near the Manuel Antonio National Park on the Pacific coast, has been successfully built and delivered to AyA. Further north in the Coco/Sardinal area on the Gulf of Papagayo, another project stalled because the inland community (Sardinal) which is to supply water to a beach resort (Coco), protested. Nevertheless, AyA and the Arias Administration acted decisively to persuade community leaders that the project benefits the community. It is likely to be finished. Two other projects in the Tamarindo area will likewise be financed in the same manner, comments Lizano, and are ready to move ahead once the controversy in Sardinal passes.

¶16. (U) The Executive President of AyA, Ricardo Sancho, has been a strong proponent of public/private financing schemes and has also commented that Costa Rica needs to be more willing than it has been in the past to go into debt to build water and sewage projects. An example is the \$230 million sewer system project designed to serve a portion of the San Jose Metropolitan Area. The Japan Development Bank agreed to a \$130 million loan (AyA pays \$30 million; the GOCR pays \$100 million). AyA will finance the remaining \$100 million through rates levied on users of the system. This project is also

an illustration of the dangers inherent in the requirement that the national legislature approve all sovereign debt. Despite the manifest need for modern sewage treatment, this legislative project languished for years and was finally approved in October of 2006 when Costa Rica was about to lose the Japanese loan.

ANY PROPOSALS FOR REFORM?

¶17. (U) Costa Rica's existing water law is over 60 years old, yet concerted attempts to draft a new water law have stalled. Dr. Pedro Leon, a top environmental advisor to President Arias, told Emboffs on October 14 that the GOCR hopes to push a new "Water Resources Law" through for approval in 2009 in concert with President Arias' "Peace With Nature" initiative. The debate over water resources has generated heated turf battles between AyA, ASADAs, ESPH, MINAET, the Health Ministry, SENARA, and ARESEP.

¶18. (U) In addition, more philosophical objections are enunciated by Carlos Manuel Rodriguez, ex-Minister of MINAET during ex-President Pacheco's administration, who states that the current water bill is more "commercial" (and therefore less acceptable) than the law drafted during Rodriguez's tenure at MINAET. Rodriguez believes that the legislature will not approve the water bill as currently proposed. Nevertheless, both he and the Arias administration agree on two types of water use payments (see para 8 above): a water use fee ("canon de aprovechamiento de agua") and a pollution or discharge fee ("canon de vertimiento al agua").

COMMENT

¶19. (SBU) Costa Rica's water sector presents great potential that is stymied by ineffective law, interagency bickering, and AyA's struggles to exert operational control while ceding a portion of its expansion to private/public agreements. As with other public infrastructure problems here (i.e., regarding highways, ports, and electrical production), the continued public demand for potable water will force actors in the sector to do something. The need for large water and sewer projects in the booming Guanacaste tourist areas and the rapidly growing San Jose Central Valley is generally accepted, as is AyA's role as the lead institution in managing those projects.

¶20. (SBU) However, we believe that any reform to existing water laws is unlikely to advance during the remaining 18 months of the Arias administration. There are simply too many more pressing legislative and political challenges to address, such as the growing domestic security problem and the impact of the world financial crisis. The conflicting challenges of delivering improved water and wastewater services in Costa Rica will likely wait until the next administration takes office in 2010.

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